



## BOARD OF PUBLIC WORKS & SAFETY JULY 19, 2005 MINUTES

Mayor Charles Henderson called the meeting to order at 6:00 p.m.

<b>PRESENT:</b>	Board members Warren Beville, Mayor Henderson; Kevin Hoover; Clerk-Treasurer Jeannine Myers; City Attorney Shawna Koons-Davis; and Director of Engineering Paul Peoni.
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Mr. Beville moved to approve the minutes of the regular session of July 7<sup>th</sup> as presented. Second by Mr. Hoover. Vote: Ayes (Abstain – Mayor).

For Kensington Grove – Section 3 Mr. Peoni reported that the improvement being requested has been installed in reasonable compliance with the design plans. The amount and improvement shown on the bond is correct and approved by the Engineering Department. The Law Department has found the form of the bond to be acceptable. The 1/3 SAF, the 15 Year Law and the final sanitary inspection fees have all been paid. The plat has been reviewed and is acceptable; however we do need two mylar copies of the as-builts. Mr. Hoover moved to:

- 1) Accept the sanitary sewers at Kensington Grove – Section 3, subject to Keith Meier, Sanitation Superintendent approval.
- 2) Accept three (3) year maintenance bond #104540993 in the amount of \$61,006 by St. Paul Fire and Marine Insurance Company for the sanitary sewers at Kensington Grove – Section 3.
- 3) Accept the Owner's Certificate of Completion of Improvements and Contractor's Affidavit for Kensington Grove – Section 3.
- 4) Execute the final plat, all subject to:
  - a) Receipt of two (2) mylar as-builts.

Second by Mr. Beville. Vote: Ayes. The plat will be held by the Engineering Department until the above condition is met.

For Kensington Grove – Section 4, there was the same situation. The sewers have been installed in reasonable compliance with the design plans. The amount and improvement shown on the bond have been approved by the Engineering Department and the Law Department has approved the form. Again the related fees have been paid and the plat is acceptable. The as-builts have been reviewed and been found to be acceptable; however, we need two mylar copies. Mr. Hoover moved to:

- 1) Accept the sanitary sewers at Kensington Grove – Section 4, subject to Keith Meier, Sanitation Superintendent approval.
- 2) Accept three (3) year maintenance bond #104540994 in the amount of \$27,390 by St. Paul Fire and Marine Insurance Company for the sanitary sewers at Kensington Grove – Section 4.
- 3) Accept Owner's Certificate of Completion of Improvements and Contractor's Affidavit for Kensington Grove – Section 4.
- 4) Execute the final plat, all subject to:
  - a) Receipt of two (2) mylar as-builts.

Second by Mr. Beville. Vote: Ayes. The original plat will again be held by the Engineering Department until the above condition is met.

Next Max Newkirk of Major Engineering came forward to ask for acceptance of the final plat related to the replat of Suburban Acres Lots 5 & 6. Mr. Peoni noted that this is one of the older subdivisions off of Riverside Drive, south of Fry Road. He told the Board that somehow three homes were built on two lots and it has been this way for years. Mr. Newkirk's client requested the replat to create three lots for tax purposes. It has been through the Plan Commission process. Mr. Beville moved to accept the final replat for Suburban Acres Lots 5 & 6 after final approval by the Engineering and Law departments. Second by Mr. Hoover. Vote: Ayes.

Code Enforcement John Myers was next. The first complaint was at 1650 Foxmere Boulevard, a report of high grass and weeds received 5/25/05. It is just east of State Road 135, south of Fry Road. On June 6<sup>th</sup>, Code Enforcement inspected the site and left a 10-day notice at the residence. On June 22<sup>nd</sup> the president of the Homeowners' Association called to discuss responsibility of maintaining the landscape easement involved. For the past ten years, the Homeowners' Association has mowed the area and it is now being disputed. They have maintained the brickyard, flowers, shrubs, sprinkler system and monuments. Taxes were paid by the property owners at 1650 Foxmere Boulevard and insurance on the monuments was paid by the Homeowners' Association. Both sides were represented. Marilyn Hubbard, president of the Homeowners' Association indicated that after a survey requested by the property owner, the association did not address the issue from last July until this spring. She added that every property in the development has an easement of some type and property owners maintain those. The association is asking for a determination of whose responsibility it is to maintain a landscape easement. This led to discussion related to pictures of the property. As attorney for the resident, Mr. Hoover discussed the covenants and staked lot survey (in attachments of this meeting).pointing out that among the responsibilities of the Association is "maintenance of the Greenbelt and Common Areas and any installation thereon in a clean and attractive condition and in good repair". Mr. Hoover then asserted it seems clear that a landscape easement is part of the greenbelt and should be maintained by the Association, as it did for fourteen years after the mound was installed. The Homeowners' Association interprets the statement implying common areas and their question is whether a landscape easement is very different from a utility easement. Ms. Koons-Davis agreed with the interpretation that the terms "landscape easement" and "greenbelt" are used interchangeably and it is the responsibility of the Homeowners' Association to install and replace landscaping, signs and other improvements for the greenbelt and common areas. She felt that this decision would be upheld in a court. After more discussion, Mayor Henderson moved to find that a nuisance exists at 1650 Foxmere Boulevard as presented by Code Enforcement. Second by Mr. Beville. Vote: Ayes (Hoover – recused himself). Mayor Henderson next moved to find that the Homeowners' Association has the responsibility to maintain the landscape easement as in the covenant. Second by Mr. Beville. Vote: Ayes (Hoover – recused himself). The Mayor asked that the nuisance be abated within two weeks.

Mr. Myers reported that the violation at 2492 Longleaf Drive has been abated.

Last was a violation of high grass and weeds at 555 Northgate Drive, which has been before the Board on several occasions. A complaint was received on 7/5/05 notice sent to the owner, Ryan Stewart, and the mortgage company. The property is still in violation. It was taken off the list for sheriff's sale last month. Mr. Beville moved to find that a nuisance exists at 555 Northgate Drive, that a 7 Day Order of Abatement be issued, and failing that, the City Attorney is to take all steps she deems necessary to abate the nuisance and charge the cost back to the property owner. Second by Mr. Hoover. Vote: Ayes.

Ms. Koons-Davis next discussed two proposals for the accidental death and dismemberment insurance required for firefighters. One from Gregory & Appel was for \$6,796.65 and one from Emergency Services Insurance Program (ESIP) for \$5,519. She described the coverage and benefits as the same. The coverage had to be in place and was approved by the Mayor. At her recommendation, Mr. Beville moved to ratify payment to ESIP for the annual premium of \$5,519 and authorize the Mayor to sign all related documents. Second by Mr. Hoover. Vote: Ayes.

The City Attorney next presented an addendum to the Pleasant Township Fire Protection Agreement for 2005-2006. Pleasant Township wants to provide two additional severe weather warning sirens that will be at the east end of the corporation – at the front of the intermediate school on Sheek Road and also by the new fire station #4. They will provide the continuing cost for the maintenance. Mr. Beville moved to accept the addendum as presented and authorize the Mayor to sign. Second by Mr. Hoover. Vote: Ayes.

On his Status of Tasks, Mr. Peoni first discussed the entrance onto Marlin Drive from the Dairy Queen on State Road 135. The entrance has been repaired in compliance with the design plans and they are asking for the release of their performance guarantee (Letter of Credit #190003007 from Heartland Community Bank in the amount of \$30,000) for that work. The Engineering Department has found everything to be acceptable in the field, noted Mr. Peoni. Mr. Hoover moved to release the performance guarantee as described for the Dairy Queen entrance. Second by Mr. Beville. Vote: Ayes.

For Trotter's Point, Phase 1, Mr. Peoni presented the Inspection & Testing Agreements for both the sanitary sewers and all other improvements. Mr. Beville moved to accept the Inspection & Testing Agreements for Trotter's Point, Phase 1. Second by Mr. Hoover. Vote: Ayes.

Mr. Peoni discussed a request from Kevin Poad of 737 Redbud Lane to fill in a roadside ditch to install a piping system. Mayor Henderson reported that the Director of Operations had told him that several of the other ditches along Redbud had already been enclosed and filled up. Mr. Hoover moved to give the authority to the Director of Operations and the Director of Engineering to work out the situation to their satisfaction. Second by Mr. Beville. Vote: Ayes.

Mr. Beville moved that the claims be approved as presented through July 19<sup>th</sup>. Second by Mr. Hoover. Vote: Ayes.

Mayor Henderson brought up the request at the last meeting for a trash refund of several months. He understands that the house was vacant and also that in times past the Sanitation Billing Department has issued refunds or stopped billing. The Mayor said he also understands there is a City ordinance prohibiting refunds. Mr. Beville recalled that a request form was filled out in previous years, as well. This was not done in this instance. Mr. Hoover moved to deny the refund request. Second by Mr. Beville. Vote: Ayes.

With no further business, the meeting adjourned at 7:05 p.m.